Before the
**FEDERAL COMMUNICATIONS COMMISSION**
Washington, D.C. 20554

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| In the Matter of | ) | |
| | ) | |
| 2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996 | ) ) ) ) ) ) | MB Docket No. 18-349 |

# JOINT REPLY COMMENTS


**Connoisseur Media, LLC**
Jeffrey D. Warshaw
Founder and Chief Executive Officer

**Townsquare Media, Inc.**
Erik Hellum
Chief Operating Officer

**Mid-West Family Broadcasting**
Thomas A. Walker
President

**Midwest Communications, Inc.**
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Chief Operating Officer

**Frandsen Family Stations**
M. Kent Frandsen
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**Cherry Creek Media**
Jonathan Brewster
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**Neuhoff Communications**
Beth Neuhoff
Chief Executive Officer and President

**Eagle Communications, Inc.**
Gary Shorman
Chairman and Chief Executive Officer

**Patrick Communications, LLC**
W. Lawrence Patrick
Managing Partner

**Legend Communications, LLC**
Susan K. Patrick
Managing Partner

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# JOINT REPLY COMMENTS

## I. INTRODUCTION AND SUMMARY.

Connoisseur Media, LLC ("Connoisseur"), Townsquare Media, Inc. ("Townsquare"), Mid-West Family Broadcasting (Mid-West Family"), Midwest Communications, Inc. ("Midwest Communications"), the Frandsen family stations ("Frandsen"), Cherry Creek Media ("Cherry Creek"), Neuhoff Media ("Neuhoff"), Eagle Communications, Patrick Communications, LLC ("Patrick Communications"), and Legend Communications, LLC ("Legend Communications") (together, "Joint Commenters")[1] hereby submit their Reply Comments in the above-referenced

[1] Connoisseur is the licensee of approximately 30 radio stations in Connecticut, New York, Pennsylvania and Montana. Townsquare is a public company and the licensee of approximately 320 radio stations across the country. Mid-West Family is a group of independent companies with interlocking ownership holding licenses for over 40 radio stations in a number of Midwestern states. Midwest Communications is the licensee of approximately 75 stations in the Midwest and in south-central states. Members of the family of M. Kent Frandsen hold the licenses for over 20 stations in Utah, Idaho and Wyoming. Cherry Creek is the licensee of more than 50 radio stations that serve their local markets in the Rocky Mountain Region, Upper Midwest, Northwest and Southwest. Neuhoff has twenty radio stations, sixteen locally focused digital music, information, and entertainment sites, and serves over a million consumers in Illinois and Indiana. Eagle Communications is an employee-owned licensee of 28 stations serving more than 300,000 people in Kansas and Missouri. Patrick Communications is a leading brokerage and investment banking firm offering many services, including media, tower and telecom brokerage whose controlling principals are also the controlling principals of Legend Communications, which owns 23 radio stations in Wyoming.

proceeding.[2] The Joint Commenters, in their initial comments in this proceeding ("Initial Joint Comments"), urged the Commission to find that the local radio ownership rules are no longer "necessary in the public interest" as required by statute for their retention. Thus, the Joint Commenters asked the Commission remove the existing limits to allow radio companies to compete with the innumerable new competitors that have arisen in the last 23 years.[3] Unlike in 1996, today's radio does not compete for advertising and audience solely with other radio stations. Instead, radio competes with a virtually unlimited number of new media outlets – some of which are owned by the biggest companies in the American economy – providing both advertisers and audience members a wealth of alternative sources for their attention.

The initial comments submitted by other commenting parties do not offer anything that undermines the above position. While there were comments by broadcast companies and other interested parties opposing changes to the rules, all appear to be guided by individualized concerns about more effective competition from companies that take advantage of any relaxation of the rules, and not by genuine concerns about the *public* interest.[4] Furthermore, virtually none of the parties commenting in opposition to relaxation of the rules dispute that radio is subject to

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[2] *2018 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, MB Docket No. 18-349, FCC 18-179 (rel. Dec. 13, 2018) ("NPRM").

[3] *See* Comments of Connoisseur, Townsquare, Mid-West Family, Midwest Communications, Frandsen, Cherry Creek, Neuhoff, Eagle Communications, Patrick Communications, and Legend Communications, MB Docket No. 18-349, at 2-5 (filed Apr. 29, 2019) ("Initial Joint Comments") (citing Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 111-12 (1996)).

[4] In the filings of Free Press and those of a consortium of public interest groups, there are generalized claims that any liberalization of the ownership rules will harm diversity and local coverage of news issues. But in both sets of comments, the parties rely on examples from the television industry, offering little or nothing about the current state of competition in the audio marketplace. Given the facts submitted by the Joint Commenters about the state of competition in the audio marketplace, only by strengthening local radio competition can it stand up and thrive when faced with the new competition in that marketplace which offers little diversity of ownership and nothing in the way of local news.

this intense new competition. Nor do the other commenters offer any empirical evidence to refute the detailed factual data provided by the Joint Commenters and by the National Association of Broadcasting ("NAB") demonstrating the fierce competition for both audience share and the advertising dollars between radio and other, principally digital, competitors. In fact, most of the comments acknowledge that this increased competition exists, but try to argue that it should be ignored by the Commission. Some commenters downplay the effects of this increased competition on radio, and others argue broadcasters must just accept the new marketplace realities that digital will steal audience and advertising from broadcasters and broadcasters cannot do anything to fight back.[5] Others suggest that there are other public interest factors that outweigh the benefits of creating a level playing ground for radio as the media marketplace continue to grow. On careful review, none of these comments bear scrutiny and, as thus, the Commission should expeditiously change the rules.

## II. TODAY'S AUDIO MARKETPLACE IS PART OF A LARGER INTENSE NATIONAL MEDIA MARKETPLACE IN WHICH AM AND FM RADIO STRUGGLE TO COMPETE FOR ADVERTISING DOLLARS AND LISTENERS.

As noted above, virtually all of the comments, even those of broadcasters opposed to a relaxation of the ownership rules, admit that the marketplace has changed, and that radio is facing significant new challenges from new competitors – principally from digital media companies.[6] Many of those opposed to any change in the rules contend that other factors are

[5] *See, e.g.*, Comments of Urban One, Inc., MB Docket No. 18-349, at 5 (filed Apr. 29, 2019) ("Urban One Comments"); Joint Comments of the musicFIRST Coalition and the Future of Music Coalition, MB Docket No. 18-349, at 10-12 (filed Apr. 29, 2019) ("Joint Music Comments").

[6] *See, e.g.*, Comments of NCTA – The Internet & Television Association, MB Docket No. 18-349, at 1 (filed Apr. 29, 2019) (stating the "media marketplace has seen dramatic changes since the Commission began conducting its media ownership reviews two decades ago") ("NCTA Comments"); Comments of iHeart Communications, Inc., MB Docket No. 18-349, at 3 (filed Apr. 29, 2019) (stating "[i]t is beyond dispute that the audio ecosystem in which free, over-the-air, local radio broadcasting currently operates and competes has changed dramatically since the 1996 Act") ("iHeart Comments"); Comments of Curtis Media Group, Inc., MB Docket No. 18-349, at 2 (filed Apr. 29, 2019) ("Curtis Media Comments");

more important than the change in the marketplace in deciding whether to relax the ownership rules. However, as addressed below, any attempts fall short in minimizing concerns about how the increased competition in the marketplace will undermine traditional radio's audience and advertising base. It is abundantly clear in the record that broadcasters are facing the most intense competition ever, while simultaneously losing listeners to other media players.[7]

Several comments point to the single fact that radio reaches 90 percent of the population on a weekly basis to argue that it is still the dominant player in the media marketplace.[8] But none of these comments go behind that single statistic to look at whether such listening is really meaningful, what the listening trends have been in recent years, and what these trends portend for the future. The Initial Joint Comments showed that as much as one-third of weekly radio listening is for less than an hour.[9] And, while iHeart Media suggests that radio listening levels have been stable for a decade, the Joint Commenters documented otherwise in detail in the Initial Joint Comments. The time spent listening to radio has significantly eroded as more and more radio listeners also use digital media.[10] In younger demographics, there is a rapid and dramatic shift away from traditional radio listening and towards digital listening – with digital audio

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Urban One Comments at 4-5; Comments of Multicultural Media, Telecom and Internet Council, MB Docket No. 18-349, at 5 (filed Apr. 29, 2019) (acknowledging increased advertising competition from Facebook and Google) ("MMTC Comments").

[7] *See* Initial Joint Comments; *see also* Comments of Sinclair Telecable, Inc., MB Docket No. 18-349, at 1-2 (filed Apr. 26, 2019); Comments of Galaxy Communications LLC, MB Docket No. 18-349, at 3 (filed Apr. 29, 2019); Comments of West Virginia Radio Corporation, MB Docket No. 18-349, at 3-4 (filed Apr. 15, 2019); Comments of National Association of Broadcasters, MB Docket Nos. 18-349 & 17-289, at 1-5 (filed Apr. 29, 2019) (explaining that combining "greater competition for ad dollars with a depressed ad market places significant stress on advertising-dependent broadcasters").

[8] *See, e.g.*, Comments of Crawford Broadcasting Company, MB Docket No. 18-349, at 1-2 (filed Apr. 26, 2019) ("Crawford Comments"); iHeart Comments at 4.

[9] Initial Joint Comments at 7 and Edison Exhibit at A-1 ("Data from Edison Research's Share of Ear study shows that on a daily basis, 30 percent of survey respondents had not listened to the radio, and listening by many others was under an hour.").

[10] *Id.*

sources being listened to *more than* radio among those under the age of 34.[11] These trends do not show a dominant radio industry that still needs to be restrained by government regulation. Instead, it shows one that needs to be unshackled from ownership regulation to be put on a level playing ground to compete in today's media marketplace.

Other commenters suggest that radio is somehow different than its digital competitors because it is a locally-based medium.[12] This assertion fails to recognize the change in the media marketplace. In today's marketplace, listeners no longer need to hear the weather on the radio, as they can instead click their smartphone for that information. Traffic, the opening hours of stores, and the times of local movies are all available from online sources. Small market radio used to do on-air swap shops where local residents could call in and offer used products for sale, but today, Craigslist and other sources provide that same service. Employment advertising is now handled by apps and websites, like Indeed or ZipRecruiter.[13] While many radio stations still strive to make themselves integral to the community,[14] there are many radio stations that essentially retransmit satellite delivered programming with little localism.[15] In short, local content is now available by a click of a smartphone, so while radio still has historical goodwill from local audiences on which it can still capitalize, that presence needs to be reinforced to withstand the new and forthcoming competition.

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[11] *Id*. (citing Edison Exhibit at A-20).

[12] *See*, *e.g.*, Urban One Comments at 5 (stating "these newer media ventures are primarily national in scope and do not usually have a local presence or connection in the community").

[13] Initial Joint Comments at Exhibit C (providing numerous examples from the Joint Commenters on changes happening in markets across the country).

[14] *Id.* at 23-24; *see also id.* at Exhibit C at Declaration of Jeffrey D. Warshaw, Connoisseur, at 2; Declaration of Gary Shoreman, Eagle Communications, at 1-2; Declaration of M. Kent Frandsen, Frandsen, at 2.

[15] Many of these stations are independently owned and could be purchased by existing broadcasters who do offer more local programming if the rules were changed. Initial Joint Comments at 24.

Other opponents to deregulation of radio ownership contend that digital competition is different because over-the-air radio is free and ubiquitous, while digital competitors require a smart phone and a wireless plan subscription.[16] Yet, according to the data provided in the Initial Joint Comments, over 84 percent of Americans over the age of 12 now have smartphones.[17] The growth in smartphone ownership has been dramatic over recent years.[18] Like access to internet-based services, access to radio also has costs, such as the purchase of a radio – one purchase that people seem increasingly less likely to make. Recent statistics show that radio is no more ubiquitous than the smart phone – indeed, almost 30 percent of Americans over the age of 12, and 50 percent of Americans between the ages of 18 and 34, no longer own an FM or AM radio in their home, making it *more likely to find a smartphone in most homes than a radio*.[19] In short, digital competitors are just as accessible as are other radio competitors and, among younger demographics, they are even more accessible.

Other commenters argue that radio and digital do not compete in the same market for advertising.[20] These commenters suggest that digital is viewed as a more targeted medium and is separately considered completely and totally apart from radio. Actually, radio has always pitched itself as a medium that, because of its varied formats, offered businesses the opportunity

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[16] *See, e.g.*, Comments of Free Press, MB Docket No. 18-349, at 8-9, 11-12 (filed Apr. 29, 2019) ("Free Press Comments"); Comments of National Hispanic Media Coalition, Asian Americans Advancing Justice, Institute for Intellectual Property and Social Justice, Public Knowledge, United Church of Christ, Office of Communication, Inc., and WashingTECH, MB Docket No. 18-349, at 9-11 (filed Apr. 29, 2019) ("NHMC et al. Comments"); iHeart Comments at 9-10.

[17] Edison Research, The Infinite Dial 2018, at 16 (Mar. 8, 2018), https://www.slideshare.net/webby2001/infinite-dial-2018 ("Infinite Dial 2018").

[18] Edison Research, Infinite Dial 2019, at 16 (rel. Mar. 6, 2019), available at https://www.slideshare.net/webby2001/infinite-dial-2019 ("Infinite Dial 2019") (excerpt attached hereto as Exhibit A).

[19] Infinite Dial 2018 at 11-12 (excerpt attached hereto as Exhibit B).

[20] *See, e.g.*, iHeart Comments at 11-13.

to target specific demographics with an advertising message.[21] These commenters are contending that, because digital media can do what radio has always claimed that it can do, but to a greater degree, these outlets are not part of the same market. That simply does not comport with reality. The Joint Commenters have submitted to the record in Exhibit C to the Initial Joint Comments dozens of concrete examples of how digital advertisers and radio are competing for exactly the same advertisers and that dollars flow from one medium to the other.[22] Other commenters have similarly submitted examples to the record, such as Meredith Corporation's Local Media Group, showing that these trends are happening across all categories and markets across the country.[23] The Joint Commenters have also submitted to the record a statement by Borrell Associates, who has studied the local media marketplace for over 18 years, that "local advertisers see radio and digital advertising as substitutes – shifting dollars back and forth between these media for various reasons."[24]

iHeart suggests that the mere fact that there is some competition between radio and digital does not mean that they are in the same product market for analysis in this proceeding.[25] They advance an analogy to transportation, suggesting that, even though airlines, buses and cars all provide transportation, they are not viewed as being in the same product market for analyzing competition.[26] But, any review of that analogy shows that it does not hold – neither buses nor

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[21] *See, e.g.*, Fun 101, Radio Advertising Information, http://www.renosfun101.com/radio-advertising-information/ (last visited May 29, 2019) (explaining the ability to "market to the age, gender and type of customer who will most want your products or services").

[22] *See* Initial Joint Comments at 16-21 and Exhibit C (showing a massive shift away from radio advertising to digital advertising).

[23] Comments of Meredith Corporation's Local Media Group, MB Docket No. 18-349, at 2 (filed Apr. 29, 2019) ("Meredith Comments").

[24] Initial Joint Comments at Exhibit B at B-4.

[25] *See* iHeart Comments at 10-12.

[26] *Id.* at 12.

cars can fly, and airlines are not capable of taking an individual from their home to the grocery store in the way that a car can. For this reason, an increase in the number of airline seats filled with customers will not necessarily correlate with a decrease in cars sold. In the media marketplace, however, digital services can provide the same entertainment experience to the listener, and the same impact for advertisers. As demonstrated in Exhibit A to the Initial Joint Comments, including research by Edison Research, there is a clear correlation between the loss of audience in radio and the growth of audience in digital.[27] Borrell Associates shows the same correlation in advertising.[28] Digital and radio compete directly – and are part of the same product market.

In fact, iHeart appears to recognize this fact in its comments. While it opposes any relaxation of the ownership rules governing FM radio, it agrees that AM radio ownership should be deregulated.[29] It argues that while AM and FM both are suffering losses of audience and advertising to digital, AM is experiencing greater losses, making it more in need of regulatory assistance.[30] iHeart is in effect conceding the impact of digital on radio broadcasting, but seemingly contending that FM should be left to decline slowly until some future date, while AM should be deregulated promptly.[31] Despite iHeart's argument, the Commission should not wait

[27] Initial Joint Comments at Exhibit A at A-1.

[28] *Id.* at Exhibit B at B-4.

[29] *See* iHeart Comments at 26.

[30] *Id.* at 26-27.

[31] In the Initial Joint Comments, the Joint Commenters demonstrated that increased competition in the audio marketplace is evidenced by a decline in the value of radio stations. *See* Initial Joint Comments at 7-8. In Exhibit C to the Initial Joint Comments, Lawrence Patrick of Patrick Communications cited to the decline of value of Los Angeles FM stations as shown by a sale of a full-market station for $250 million approximately15 years ago, compared with $43 million earlier this year. This week, another sale of a Los Angeles station, KXOS, has been announced for only $35 million. *See* Assignment of License Application, FCC File Number BALH-20190524AAN; *see also* InsideRadio, *KXOS Los Angeles Price*

until radio is in an extremely weakened state before deregulating ownership. It should do so now, when the industry is still vibrant and, with new scale, can fight back against the true media giants – the tech companies fighting radio for audience and advertising dollars.

## III. THE COMMISSION SHOULD NOT PRESERVE THE OWNERSHIP LIMITS FOR THE SAKE OF PREVENTING STRONGER COMPETITORS TO SOME MARKET PLAYERS.

Some commenters suggest, or imply strongly, that the Commission should preserve the existing limits on ownership to prevent the creation of stronger competitors. These arguments are framed in several ways – most prominently that companies able to buy more FM stations will weaken AM radio, or that competitors who are able to increase their scale will use their stations to target other stations in the market that are owned by smaller owners.[32] The Commission should not restrain the ability of local radio groups to compete with the true giants of the modern media age, like Facebook and Google, simply to protect other weaker competitors in the marketplace.

In response to commenters arguing that consolidation will uniquely harm AM stations, these arguments come a bit too late. AM radio has steadily declined in audience over the last 30 years as FM has become more prominent because of its better audio quality.[33] But AM audiences – and strong AM stations – still exist. If an AM station finds a position in the market that no one else is filling, or where it can offer programming better than its competitors, it can be successful. Allowing common ownership of more FM stations is not going to impact the

*Tag Revealed: $35 Million* (May 28, 2019), http://www.insideradio.com/free/kxos-los-angeles-price-tag-revealed-million/article_06bb7700-8187-11e9-b830-8fdbcf3052fa.html.

[32] *See* Comments of Mount Wilson FM Broadcasters, Inc., MB Docket No. 18-349, at 1-4 (filed Apr. 25, 2019); Urban One Comments at 3-4; Crawford Comments at 1-2; iHeart Comments at 4-5, 29-30.

[33] *See generally* iHeart Comments at 14 (stating AM stations have declined from 4,762 in 2010 to 4,619 in 2018).

positioning or strength of these successful AM stations. If these stations can find a niche in which to be successful in today's marketplace, they should be able to be successful after the changed proposed by the Joint Commenters. The Joint Commenters are not suggesting that any more competition will be created to existing stations – just that more of the competition can be owned by a single company.

Other comments suggest that AM's most successful formats may move to FM if more FM stations can be owned by one entity. Using this argument to justify the retention of the current rules completely ignores the public interest benefits that may accrue from such a change. If existing AM programming will be more successful on an FM station because it will reach a greater audience, the public will be better served by allowing that programming to reach more people. And such programming moves would only be possible if a larger owner was to change the format of existing FM stations – likely eliminating the clusters of competing stations that now fight over audience in the most popular formats.

The Joint Commenters are owners of AM stations and are invested in the success of the band. There are many promising innovations in the works – including proposals for all-digital AM that may overcome some of the issues with AM fidelity. Allowing ownership deregulation will allow for stronger competitors who can pursue these innovations. Moreover, even if AM stations are not pursued as aggressively by bigger groups, that will leave more opportunities to new entrants and minority programmers who may be able to develop unique market positions that can be successful on the AM band.[34] The impact on AM should not be grounds to delay deregulation.

[34] Note, for instance, that iHeart suggests exactly that – pointing to unique formats that it is now developing for the AM band, including the broadcast of content originally created for podcasting. *See* iHeart Comments at 27-28.

Similarly, the fear that bigger radio groups may target independent radio groups provides no reason to retain the existing rules.[35] Competition between formats already exists – and one of the primary purposes of deregulation is to allow owners to provide a greater diversity of programming to better compete with the types of programming offered by digital companies.[36] Moreover, the fear that consolidated owners will charge *lower* rates to advertisers simply shows that this is a competitive market – and not one where more common ownership of stations will lead to higher prices to advertisers. In fact, advertising prices are constrained by both digital competitors and other radio competitors, both of whom will continue to exist even after a rule change.

In short, these commenters offer nothing to undercut the main premise of the Joint Commenters – radio broadcasters need to be able to expand their scale to be better marketplace competitors. While some individual broadcasters may find that this competition will impact their business, that business is also facing intense and increasing competition from digital and other new market entrants. If these broadcasters are not strong enough to withstand competition from other broadcasters, they will certainly not be strong enough to withstand competition from the digital giants that will soon dominate the marketplace absent regulatory reform. The Commission should not stop some companies, like the Joint Commenters, from better preparing for the increased competition, solely because other competitors do not want to have to compete in the modern media marketplace.

[35] *See* Urban One Comments at 4 ("to the extent smaller and niche broadcasters do not sell out, a lack of radio ownership restrictions will allow large radio groups to take considerably more revenue").

[36] Initial Joint Comments at 22-23.

## IV. THE COMMISSION SHOULD NOT BASE ITS DECISION TO DEREGULATE RADIO OWNERSHIP ON HYPOTHETICAL CONCERNS OF THE MUSIC INDUSTRY.

Some comments submitted to the record on behalf of the music industry make a number of claims that are untrue or based on limited, biased evidence. It is critical that the Commission base its decision based on the public interest benefits addressed above, as well as the new realities of the audio and media marketplaces, not on generalized or unsupported claims about how ownership changes will somehow undermine music diversity.

The music industry has mobilized an effort to submit hundreds of largely duplicative express comments that suggest that ownership deregulation will harm local radio owners.[37] In joint comments filed by the musicFIRST Coalition and the Future of Music Coalition, the commenters assert that deregulation will harm the diversity of music that will be heard on the nation's airwaves.[38] For example, commenters suggest that consolidated owners are likely to play less diverse music. The Commission has consistently refrained from involving itself in programming decisions, and should follow the same policy in the instant proceeding.[39] The Commission's expertise does not well-inform a judgment on whether an appropriate balance of

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[37] *See, e.g.*, *FCC Bombarded With Anti-Dereg Comments*, Radio Ink (May 15, 2019), https://radioink.com/2019/05/15/fcc-bombarded-with-anti-dereg-comments/ ("The hundreds of comments were an identical form letter put together by [the musicFIRST Coalition] which states how important their local radio station is to them and how big broadcasters would weaken local radio if the NAB's proposal to loosen ownership caps is lifted.").

[38] *See generally* Joint Music Comments at 19-40.

[39] *See* Joint Music Comments at 21-22 (citing *KTRU(FM), Houston, Texas, H218DA, Houston Texas: Applications for Assignment of License Petition to Deny and Informal Objection*, DA-11-695A1 at 3, (Apr. 15, 2011), citing *Changes in the Entertainment Formats of Broadcast Stations, Memorandum Opinion and Order*, 60 FCC 2d 858, 865-66 (1976), *recon. denied*, Memorandum Opinion and Order, 66 FCC 2d 78 (1977), *rev'd sub nom. WNCN Listeners Guild v. FCC*, 610 F.2d 838 (D.C. Cir. 1979), *rev'd*, 450 U.S. 582 (1981)).

music is being played by certain radio stations. This issue is best left to the industries involved, and is not one for agency intervention.

Nonetheless, even if the Commission wrongly decides to review the merits of this assertion, the commenters are basing their argument on ownership concentrations that are very different than those proposed here.[40] In the review of companies cited by the music industry comments, the groups were large national broadcast chains who allegedly caused less diverse music to be played by enforcing national playlists.[41] By contrast, in this proceeding the ownership relief is not focused on building bigger national broadcasting companies that will not be responsive to local programming needs. Instead, the Joint Commenters are seeking reform that is purely local, resulting in stronger local radio clusters. As noted in the Initial Joint Comments, one of the primary reasons for allowing the growth in the number of stations that a company can own in a market is the creation of more diverse programming.[42] There would be a reduction in the number of competing stations clustering around the most popular formats.[43] Instead, more diverse formats will be offered, increasing the amount of new music being offered to local communities.[44]

Furthermore, the assertion that independent commercial broadcasters play more diverse music than stations owned by bigger companies is flatly wrong. In the Joint Commenters'

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[40] *See* Joint Music Comments at 37-38.

[41] *Id.* (describing examples from CBS after its purchase of Entercom and Cumulus after its purchase of Citadel).

[42] Initial Joint Comments at 21-25.

[43] *Id.* at 22-23 ("There may be three 'top hits' or country stations owned by different companies each trying to get a share of a lucrative audience, but zero alternative or hip-hop stations. By owning multiple stations in the same market, station owners can eliminate duplicative formats and offer something new and different.")

[44] *Id.*

experience, many of the independent stations in their markets play less diverse music – often hooking into a satellite format where few if any local programming choices are made – because of a lack of financial resources.[45]

Finally, commenters from the music industry suggest that radio has a unfair competitive advantage in not being required to pay sound recording performance royalties and that this unfair competitive advantage would be compounded by allowing more common ownership of broadcast stations.[46] Broadcasters currently cannot offer the hundreds of channels offered by satellite radio in any market, or the unlimited programming choices offered by the Internet. That is the real unfair competitive advantage. Copyright policy should not affect this decision. Radio can only compete in the modern media marketplace if it can gain the scale necessary to compete with the tech giants that are now the industry's true competition.

## V. CONCLUSION.

The Joint Commenters urge the Commission to take significant steps to reform the current ownership limitations. As demonstrated by the Joint Commenters and other comments in the proceeding, the existing limits on ownership are no longer "necessary in the public interest." Today, all radio stations – FM and AM – face escalating competition from massive digital media companies and other burgeoning competitors. Given the level of competition in the marketplace for both viewers and dollars, this era of audio listening demands a level playing ground for all market participants, especially broadcast radio. As such, the Commission must eliminate the local radio ownership rules pursuant to its Congressional directive.

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[45] *See* Initial Joint Comments at 24 and Exhibit C ("Multiple stations provide nothing but satellite programming, not benefitting the local community at all.").

[46] *See* Joint Music Comments at 3-5.

Respectfully submitted,

**Connoisseur Media, LLC**
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Founder and Chief Executive Officer

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Managing Partner

May 29, 2019

# EXHIBIT A

Excerpt from Infinite Dial 2019 by Edison Research

# The Infinite Dial 2019

#InfiniteDial

# Smartphone Ownership

TOTAL U.S. POPULATION 12+

% OWNING A SMARTPHONE

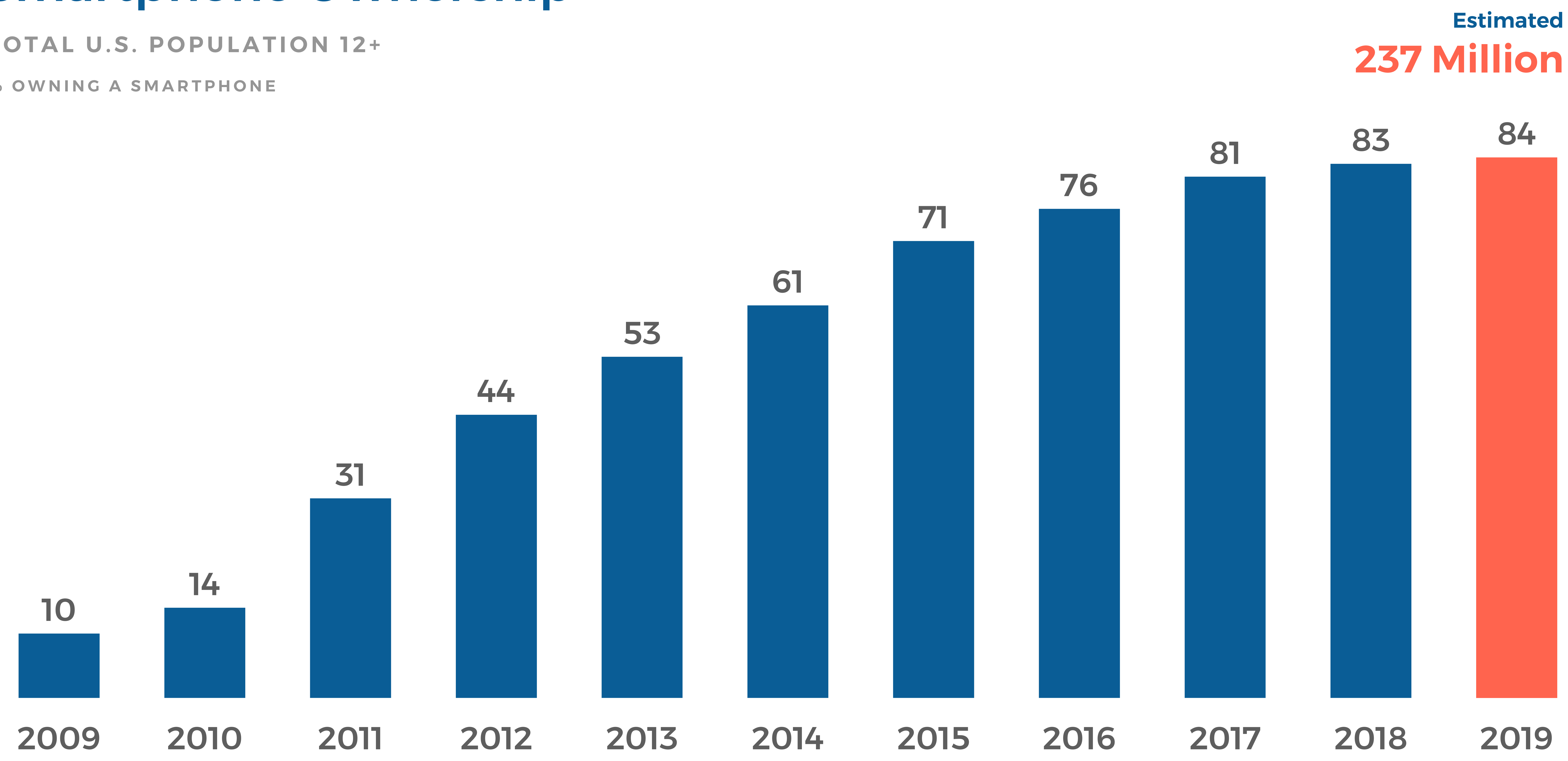


**EXHIBIT B**

Excerpt from Infinite Dial 2018 by Edison Research

# THE INFINITE DIAL

2018

#InfiniteDial

edison research

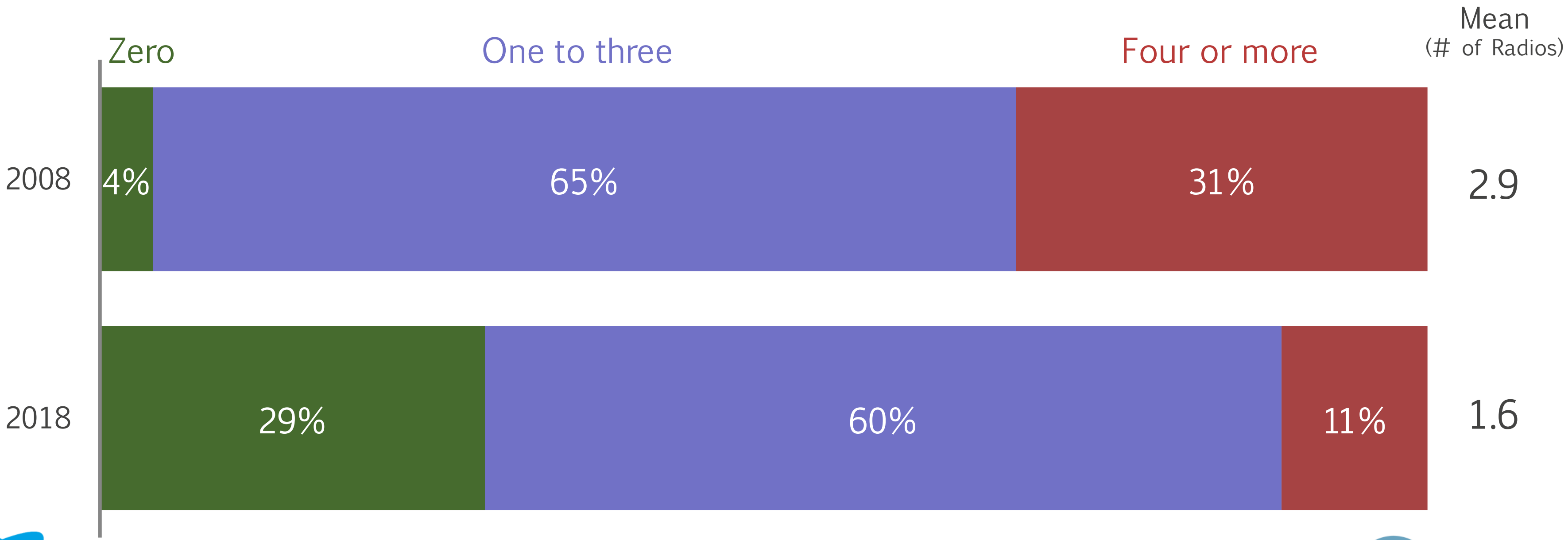
TRITON DIGITAL

THE INFINITE DIAL 2018

# Number of Radios Owned in Home

#InfiniteDial

Total Population 12+



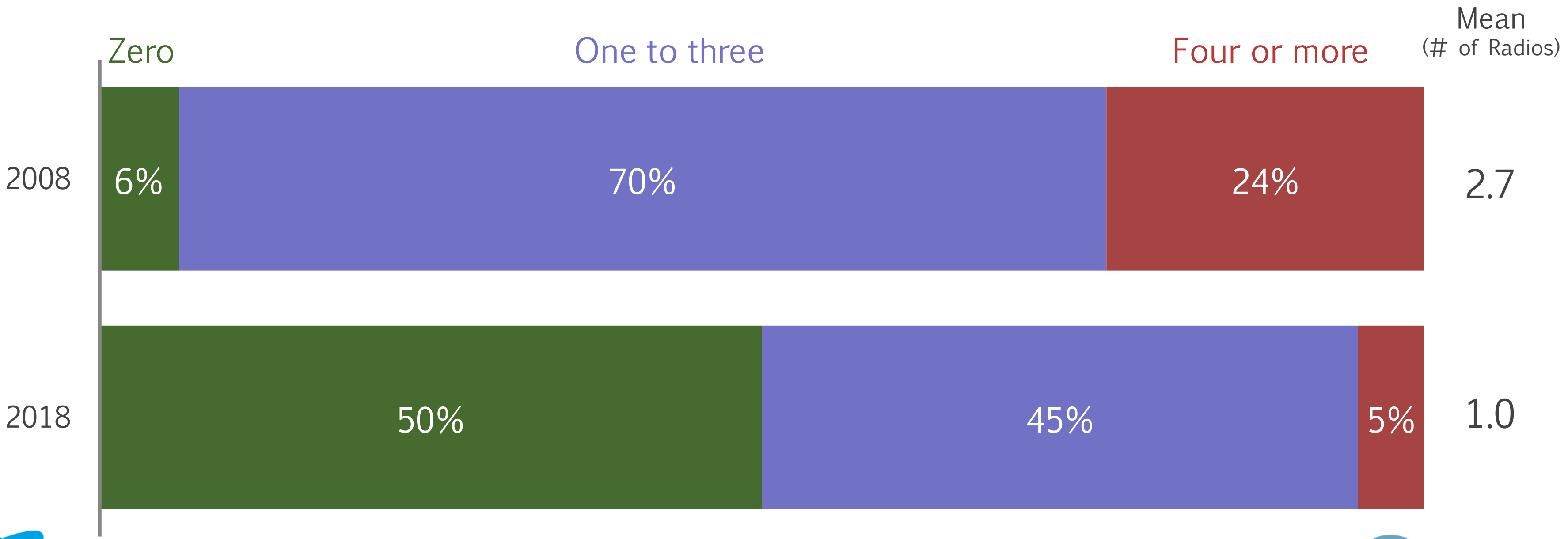

edison research

TRITON DIGITAL

# Number of Radios Owned in Home (Age 18-34)

THE INFINITE DIAL 2018

#InfiniteDial




edison research

TRITON DIGITAL